



Janet Napolitano
Governor

State Of Arizona Board of Podiatry Examiners

"Protecting the Public's Health"

1400 W. Washington, Ste. 230, Phoenix, AZ 85007; (602) 542-3095; Fax: 542-3093
Barry Kaplan, DPM; Joseph Leonetti, DPM; Dedrie Polakof, DPM; Paula Hollins, Public Member;
Jeanne Reagan, Public Member, Dee Doyle, Executive Director

REGULAR SESSION MINUTES ***Board Meeting***

March 12, 2008 8:30 a.m.
1400 West Washington St., B1
Phoenix, AZ 85007

A. Call to Order – 8:30 A.M.

Board Members: Dedrie Polakof, D.P.M., Board President
Joseph Leonetti, D.P.M., Member
Barry Kaplan, D.P.M., Member
Paula Hollins, Secretary-Treasurer
Jeanne Reagan, Public Representative

Acknowledgement of presence of Legal counsel and Board staff.

New Assistant Attorney General: Keely Verstegen

Board Staff: Dee Doyle, Executive Director

B. DISCUSSION AND CONSIDERATION AND POSSIBLE ACTION OF CONSENT AGENDA

1. Regular Session Meeting Minutes of February 13, 2008
2. Executive Session Meeting Minutes of February 13, 2008
3. Executive Session Meeting Minutes of February 6, 2008

MOTION: Dr. Polakof moved to approve the Regular Session meeting minutes of February 13, 2008, Dr. Kaplan seconded the motion.

VOTE: The Motion Passed unanimously 5 yes, 0 no

MOTION: Dr. Polakof moved to approve the Executive Session meeting minutes of February 13, 2008, Ms. Reagan seconded the motion.

VOTE: The Motion Passed unanimously 5 yes, 0 no

MOTION: Dr. Polakof moved to approve the Executive Session meeting minutes of February 6, 2008, Dr. Kaplan seconded the motion.

VOTE: The Motion Passed unanimously 5 yes, 0 no

C. DISCUSSION AND CONSIDERATION AND POSSIBLE ACTION ON REGULATORY MATTERS.

MOTION: Dr. Polakof moved to go into Executive Session for confidential legal advice at 8:35 am. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

The Board convened Executive Session at 8:35 am
The Board returned to Regular Session at 8:45 am

1. **Elaine J. Shapiro** – verbal complaint
The Board tabled this matter until later in the meeting.

The Board placed this matter back on the table at 10:25 am.
Dr. Shapiro asked for a continuance to obtain legal representation.
The Board is in receipt of a verbal complaint filed against Elaine Shapiro, DPM initiated by, G.S.
The complainant alleges possible unprofessional conduct.

Following discussion the Board opened a complaint on Elaine J. Shapiro for possible unprofessional conduct according to A.R.S § 32-854.01(12) (13) (20).

MOTION: Dr. Polakof moved to open a complaint on Elaine J. Shapiro for possible unprofessional conduct and to undergo an evaluation and testing within twenty-four hours of receipt of the Board order. Dr. Leonetti seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

2. Complaints before the Board for the First Time

a) 07-50-C RAJESH DAULAT

The Board is in receipt of a complaint filed against Rajesh Daulat, DPM initiated by his patient, M.P. The Board is also in receipt of the doctor's written response, and the complete patient medical records.

The complainant alleges she request but hadn't received copies of her medical records. On February 27, 2008 the Board received an email from M.P. stating she wished to rescind her complaint, her attorney had received the requested copies after her complaint was filed.

MOTION: Dr. Polakof moved to dismiss the complaint finding no apparent violation of the Arizona Revised Statutes governing the practice of podiatry. Dr. Leonetti seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

b) 07-49-C ARLENE POLAKOF

Dr. Dedrie Polakof recused herself from this matter.

The Board is in receipt of a complaint filed against Arlene Polakof, DPM initiated by complainant A.S. the medical records where received by the Board.

Following discussion it appeared that the patient was not careful with the self-care instructions and walked on his foot after the surgical procedure too early. The Board found no violation of Arizona State Statutes.

MOTION: Dr. Leonetti moved to dismiss the complaint finding no apparent violation of the Arizona Revised Statutes governing the practice of podiatry. Ms. Reagan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

3. Open Complaints

a. 05-27-M ELAINE J. SHAPIRO – updated February 4, still in litigation

This matter is still in litigation, to be heard in May of 2008, the matter was tabled pending the outcome of the litigation.

b. 07-39-C ELAINE SHAPIRO

The Board is in receipt of a complaint filed against Elaine Shapiro, DPM initiated by complainant J.B. The Board received the medical records from the doctor however; the consent forms were missing from the packet.

The Board tabled the complaint filed against Elaine Shapiro to obtain the consent forms.

The complainant was also invited to the meeting in February however he was unable to attend, so he was noticed again for the March 12, 2008 meeting and was able to attend and address the board regarding his complaint.

J.B. stated that he had an ingrown toenail removed by Elaine Shapiro, this was the second one he had removed at her office, however Dr. Shapiro's assistant preformed the first removal from his other foot previously without incident. This time was different, how it was preformed as well as the out come, they had to anesthetize the toe several times to numb the area, he had a severe burning sensation, which over time continued to get worse, he called Dr. Shapiro's office and went in to have it looked at and there were several blisters which Dr. Shapiro removed, cleaned and redressed the area. The area still continued to get worse so he obtained a second

opinion as Elaine Shapiro stated she would be out of the office for two weeks and this matter needed to be looked at sooner. J.B. was never told by Elaine Shapiro that this was a chemical burn. Elaine Shapiro's office also charged J.B. for every bandage they issued to him for this problem.

Following discussion, the Board has requested additional information from Dr. Shapiro as to her nail surgery procedures.

c. 05-36-C GEORGE N. THOMPSON –Continuance from February 13, 2008,
March 12, 2008 **Investigative Interview 8:30 a.m.**

Dr. Thompson was present to address the board regarding complaints 05-36-C, 06-03-C, 06-11-C, 06-28-C and 07-36-B.

The Board asked Dr. Thompson if he was represented by legal counsel and he stated his attorney had resigned two days before the meeting. The Board asked Dr. Thompson if he would prefer to attend the Investigative Interview with an attorney and Dr. Thompson stated yes.

- d. 06-03-C GEORGE N. THOMPSON- Investigative Interview 8:30 a.m.**
- e. 06-11-C GEORGE N. THOMPSON- Investigative Interview 8:30 a.m.**
- f. 06-28-C GEORGE N. THOMPSON- Investigative Interview 8:30 a.m.**
- g. 07-36-B GEORGE N. THOMPSON- Investigative Interview 8:30 a.m.**

The Board tabled c thru g to allow Dr. Thompson time to obtain a legal advisor.

h. 06-04-C ALAN GAVECK –in Superior Court

Oral arguments were heard on this case in Superior Court on March 12, 2008. The Board tabled this case pending the outcome of the Superior Court hearing.

i. 06-06-C MICHAEL DERSHOWITZ – Office of Administrative Hearings

This matter was tabled by the Board it has been sent to the Office of Administrative Hearings.

j. 06-22-M ANDREW LOWY- still in litigation

This matter is still in litigation, the Board tabled this case pending the outcome of the litigation.

k. 07-11-C J. DAVID BROWN – The Board will interview Dr. Mary Peters, consider and possible action regarding the complaint investigation on Dr. Brown – **continued until April 9, 2008**

l. 07-13-C KRIS A. DINUCCI - **Investigative Interview March 12, 2008, 8:30 a.m.**

Dr. DiNucci was present to address the board at the Investigative Interview.

The Board asked question of Dr. DiNucci regarding the advertisement in the complaint and about the procedure that he performs. Dr. DiNucci did not write the article it was done by an outside agency.

Dr. Polakof reviewed all the medical records sent in by the surgical centers where Dr. DiNucci, performs his surgeries for a three month period. The Board's concern was with documentation not mentioned in some of the pre-op records reviewed. Records and billing have to reflect all that is done to the patients.

Dr. DiNucci stated he has changed the Advertising and the procedure process is discussed prior to performing the surgery.

MOTION: Dr. Polakof moved to dismiss the complaint finding no apparent violation of the Arizona Revised Statutes governing the practice of podiatry. Dr. Leonetti seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

m. 07-28-C KENT PETERSON – Tabled until Medicare investigation is complete

The Board tabled this matter until the Medicare investigation is complete but also directed staff to send a subpoena to Dr. Peterson's attorney to send monthly updates to the Board regarding the statutes on the Medicare case.

n. 07-32-B SERJIK NAZARIAN – Consent Agreement

Dr. Nazarian was sent a Consent Agreement regarding this case and he signed it and returned it to the Board.

The Board approved the continuing medical education Dr. Nazarian requested to take for this agreement at the February 13, 2008 board meeting.

The Board instructed staff to send a permanent subpoena for records review by the board for each month that Dr. Nazarian does surgery, he is to notify the Board.

MOTION: Dr. Polakof moved to adopt the consent agreement as written, Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously by roll call vote 5 yes, Paula Hollins, Jeanne Reagan, Joseph Leonetti, Barry Kaplan and Dedrie Polakof voted yes. no 0.

**o. 07-37-M BRANDON KIM - Investigative Interview March 12, 2008, 8:30 a.m.
Continuance requested and granted until April 9, 2008 board meeting**

Due to a continuance request this matter was tabled until the April 9, 2008 board meeting.

**p. 07-38-M MARK GORMAN - Investigative Interview March 12, 2008, 8:30 a.m.
Continuance requested and granted until April 9, 2008 board meeting**

Due to a continuance request this matter was tabled until the April 9, 2008 board meeting.

q. 07-45-C GILBERT SHAPIRO – records received

At a previous meeting, the Board tabled the complaint filed against Gilbert Shapiro, DPM initiated by his patient A.Z. for further investigation. The Board requested a subpoena be sent to Dr. Charillo, DPM for copies of his medical records including x-rays on the patient A.Z.

Following discussion the Board tabled this matter to obtain the pathology report from Dr. Charillo that wasn't included in the records he sent to the Board.

The patient A.Z. was present at the Board meeting and asked questions of the Board regarding her complaint.

The Board responded that further documentation was needed from Dr. Charillo for them to review to make a determination.

r. 07-47-C ARLENE POLAKOF – records received

The Board tabled this matter for further investigation and to obtain the following records:

The Board received the medical records from the doctor however the x-rays were not sent. The Board asked that a subpoena be sent to obtain copies of the X-rays for the patient on this complaint.

D. DISCUSSION AND CONSIDERATION AND POSSIBLE ACTION ON ADMINISTRATIVE MATTERS

1. Governor's proposed consolidation of state boards – Meeting March 20, 1:30 pm
Ms. Doyle, let the Board know of the meeting scheduled with Tracy Hannah from the Governors office on the proposed consolidation of the state boards.

Dr. Polakof, Board President is not able to attend as requested, she has appointed board member Jeanne Reagan to represent the Board.

2. Updated Renewal Application

This matter was tabled until the April board meeting so the Board members could review the form changes.

F. CALL TO THE PUBLIC

Dr. Polakof gave a call to the public,

Dr. Leonetti addressed the Board in call to the public regarding attending the National PMLexis Exam. He asked that the state exam be agendaized for discussion at the April board meeting.

E. REVIEW OF APPLICATIONS FOR THE JUNE 10, 2008 EXAM

Fai Wong
Askari, Shahram

Brian Pekarek
John Marin

Terence Thompson

Jessica Cerda

Noland Jones

MOTION: Dr. Kaplan moved to approve the applicants listed above to take the June 10, 2008 oral exam.
Dr. Polakof seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

G. CORRESPONDENCE

A. Correspondence received from Barry University office of Continuing Medical Education

MOTION: Dr. Leonetti moved to approve the Continuing Medical Education received from Barry University, Dr. Polakof seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

2. CAC Competence Workshop

The Board received information on the upcoming CAC Competence Workshop. This was just information in case they wished to attend.

I. PRESENTATION OF PLAQUE TO DR. KAPLAN FOR FIFTEEN YEARS OF SERVICE WITH THE PODIATRY BOARD.

Dr. Polakof, Board President presented Dr. Barry Kaplan a plaque for his fifteen years of service with the Podiatry Board and in service to the public.

H. EXECUTIVE SESSION FOR UPDATE DISCUSSION AND CONSIDERATION AND POSSIBLE ACTION ON ADMINISTRATIVE CONFIDENTIAL AUDIT MATTERS

1. Auditor General update

MOTION: Dr. Polakof moved to go into Executive Session for confidential audit matters at 10:35 am. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

The Board convened Executive Session at 10:35 am

The Board returned to Regular Session at 11:45 am

The Auditors addressed the Board in public session, the Board doesn't have a policy in writing on how the Board's office gives out information to the Public regarding complaints. Dr. Leonetti advised the auditors that the Board's policy is to inform the public of any complaint received on doctors within a five year time frame, unless there were disciplinary issues. Any discipline action stays on the doctor's record forever and the information is available to the public. The public is also told if there is a current open complaint. So even if a complaint has been dismissed the public is given this information on how many complaints a doctor has received within the five-year time frame.

ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 11:45 a.m.

NOTE: Next Meeting Date: April 9, 2008

Respectfully submitted,

Dee Doyle
Executive Director

APPROVED:
Dedrie Polakof, DPM
Board President